

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
OFFICE OF THE DIRECTOR**

**INITIAL STATEMENT OF REASONS**

**Subject Matter of Proposed Amendment to Regulations: Annual Collection of the Workers' Occupational Safety and Health Education Fund Fee**

The Director of the Department of Industrial Relations, (hereinafter "Director") acting pursuant to the authority granted by Labor Code Sections 50.5, 54 and 55 proposes to amend an existing regulation and adopt a new regulation to implement the provisions of Labor Code Section 6354.7, added by Statutes 2002, Chapter 6, Sections 1 and 84 (AB 749 (Calderon, 2001-2002)).

Labor Code Section 6354.7, effective January 1, 2003 will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected are to be deposited in the Workers' Occupational Safety and Health Education Fund, which will be established as a special account in the state treasury. These fees and the fund will replace the loss control certification fee and loss control certification fund which will both be eliminated.

**Time and Place of Public Hearing:**

**Date: Friday, September 13, 2002**

**Time: 10:00 a.m.**

**Place: Auditorium**

**The Governor Hiram Johnson State Office Building  
455 Golden Gate Avenue  
San Francisco, California 94102**

**BACKGROUND TO REGULATORY PROCEEDING:**

Labor Code Section 6354.7 will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected are to be deposited in the Workers' Occupational Safety and Health Education Fund. These fees and the fund will replace the loss control certification fee and loss control certification fund which will both be eliminated.

**Section Amended - Section 339.8:**

The existing regulation provides for the collection of the loss control certification fee and provides that the funds collected shall be deposited in the Cal/OSHA Targeted Inspection and

Consultation Fund. The loss control certification fee is being eliminated, effective January 1, 2003 by the provisions of AB 749 (Statutes 2002, Chapter 6, Section 84 (AB 749 - Calderon, 2001-2002)).

The proposed amendment will replace the loss control certification fee with the newly created workers' occupational safety and health training and education program fee.

Labor Code Section 6354.7, effective January 1, 2003, will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected will be deposited in the Workers' Occupational Safety and Health Education Fund. These fees and the fund will replace the loss control certification fee and loss control certification fund which will both be eliminated, effective January 1, 2003.

**Specific Purpose of Amendment:**

Labor Code Section 6354.7 will require the Director to levy and collect fees from workers' compensation insurers for the purposes of funding a workers' occupational safety and health training and education program administered by the Commission on Health and Safety and Workers' Compensation and an insurance loss control services coordinator. The fees collected will be deposited in the Workers' Occupational Safety and Health Education Fund. These fees and the fund will replace the loss control certification fee and loss control certification fund which will both be eliminated, effective January 1, 2003.

The amendment specifies the procedure under which the Commission Health and Safety and Workers' Compensation will collect the fee on behalf of the Director, the date by which the fee must be paid, the method for calculating the amount of the fee and the documentation that each insurer must submit with the fee payment.

**Factual Basis That Amendment is Necessary:**

This amendment is required to inform the regulated public how the new workers' occupational safety and health training and education fee will be collected and what documentation must be submitted with the fee payment.

**Section Adopted – Section 339.9:**

The proposed amendment to Section 339.8 will require each insurer required to pay the annual workers' occupational safety and health training and education program to submit an annual report form, with prescribed content, to the Commission on Health and Safety and Workers' Compensation using the CHSWC-1 "Workers' Occupational Safety and Health Education Fee Annual Report" form.

The proposed new regulation will adopt as a regulation the annual form CHSWC-1 report form required by the proposed amendments to Section 339.8.

**Specific Purpose of Adoption:**

The proposed form CHSWC-1 report form will advise the recipient of their obligation to pay the fee, and contain spaces to provide: a list all of the carrier names used by the applicant to write workers' compensation insurance in California and the name and title of the person with the authority to establish the program to provide loss control consultation services in California and authorize the payment of fees into the Fund. The form will also advise the insurer of the documentation required to be submitted with the report, that payment is due on or before April 1 of the current year and provide a space for the insurer to calculate the fee owed by the insurer.

**Factual Basis That Amendment is Necessary:**

This adoption is required to create and adopt the annual form CHSWC-1 "Workers' Occupational Safety and Health Education Fee Annual Report" form that will be required by the proposed amendment to Section 339.8.

**SPECIFIC TECHNOLOGIES OR EQUIPMENT**

This regulations do not mandate the use of specific technologies or equipment.

**TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS**

The Director did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the above-identified amendments.

**REASONABLE ALTERNATIVES TO THE PROPOSED AMENDMENTS AND REASONS FOR REJECTING THOSE ALTERNATIVES**

No alternative to the proposed regulations were considered. Collection of the fee is a statutory mandate.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

No alternatives were identified as the proposed regulations will not affect small businesses. The proposed regulations only apply to insurance companies. Government Code Section 11342.610(b)(2) provides that the term "small business" does not include an insurance company.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

Labor Code Section 6354.7 (added by Statutes 2002, Chapter 6, Section 84 (AB 749 - Calderon, 2001-2002) effective January 1, 2003 mandates the collection of the workers' occupational safety and health training and education fee from workers' compensation insurers and caps the amount of the fee at the greater of one hundred dollars (\$100) or 0.0286 percent of paid workers' compensation indemnity claims as reported for the previous calendar year to the designated

rating organization for the analysis required under subdivision (b) of Section 11759.1 of the Insurance Code. The regulations merely advise the regulated public of the methodology for payment of the fee.

The cost of completing the proposed form CHSWC-1 report form required by the proposed amendment to Section 399.9 will be minimal. The form will be provided by the Commission on Health and Safety and Workers' Compensation at no cost.

The overall economic effect of the proposed regulations will therefore be minimal.

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